

A19.13:18



S.R.A.—B.P.I. 18

Issued October 1933

## United States Department of Agriculture

### BUREAU OF PLANT INDUSTRY

#### SERVICE AND REGULATORY ANNOUNCEMENTS NO. 18

### PROSECUTIONS UNDER THE INTERSTATE CLAUSE (SEC. 6) OF THE FEDERAL SEED ACT

(July 1, 1931, to June 30, 1933; 1-14)

**1. Misbranding of cowpea seed. U.S. v. 36 Bags of Cowpea Seed. Seed seized but released under bond to be relabeled. (F.S. 34.)**

Kind and amount of seed: Cowpeas, 36 bags (90 bushels).  
Shipped by Walton Seed Co., Augusta, Ga., January 8, 1931.  
From Augusta, Ga., to Cape Charles, Va.

Action taken: On April 24, 1931, a libel was filed in the United States District Court for the eastern District of Virginia praying seizure of the above-mentioned seed alleging same to be misbranded in violation of the Federal Seed Act in that the seed was labeled "New Era Purity 99%" "Germination 98.00% Date of germination test Dec. 1930", whereas the seed consisted of not more than 5 percent New Era cowpea seed, the remainder being cowpeas of other varieties, and the germination was less than 98 percent. The United States marshal seized the 36 bags on April 27, 1931.

Disposition: On July 7, 1931, a decree was entered releasing the seed to claimant under bond in the sum of \$250, conditioned the seed be relabeled under supervision of the United States Department of Agriculture, and not sold contrary to the provisions of the Federal Seed Act. The decree provided further that claimant should pay all costs.

**2. Misbranding of timothy seed. U.S. v. 12 Bags of Timothy Seed. Seed seized and sale by United States marshal ordered. (F.S. 36.)**

Kind and amount of seed: Timothy, 25 bags (3,401 pounds).  
Shipped by Lexington Elevator & Mill Co., Lexington, Ohio, April 15, 1931.  
From Lexington, Ohio, to Harrisonburg, Va.

Action taken: On or about May 21, 1931, a libel was filed in the United States District Court for the Western District of Virginia, praying seizure and condemnation of 12 bags of the above-mentioned seed, alleging same to have been shipped in interstate commerce in violation of the Federal Seed Act in that the seed was labeled "Approx. Germination 92%—Jan. 1931", whereas, it was found to germinate not more than 39 percent. The 12 bags of seed were seized by the United States marshal on May 28, 1931.

Disposition: The final decree entered October 26, 1931, provided for sale of the seed by the United States marshal.

**3. Misbranding of red-clover seed. U.S. v. Prestin W. Hardin, Charles L. Hamilton, and Jacob B. Lewman. Plea of nolo contendere. Fine, \$200. (F.S. 37.)**

Kind and amount of seed: Red clover, 2½ bushels.  
Shipped by Hardin, Hamilton & Lewman, Louisville, Ky., March 9, 1931.  
From Louisville, Ky., to Castlewood, Va.

Action taken: Information was filed in the United States District Court for the Western Judicial District of Kentucky, alleging that Prestin W. Hardin,

Charles L. Hamilton, and Jacob B. Lewman, copartners, unlawfully delivered for transportation in interstate commerce the above-mentioned shipment, misbranded in violation of the Federal Seed Act in that it was labeled "Approximate germination 90%", whereas the seed germinated much less than 90 percent. The seed was found to germinate 52 percent with an additional 4 percent of hard seed in April 1931.

Disposition: On October 29, 1931, the case was terminated upon a plea of nolo contendere and the assessment of a fine of \$200.

**4. Misbranding of orchard-grass seed. U.S. v. Louisville Seed Co. Plea of nolo contendere. Fine, \$200. (F.S. 38.)**

Kind and amount of seed: Orchard grass, 10 bags.

Shipped by Louisville Seed Co., Louisville, Ky., April 17, 1931.

From Louisville, Ky., to Harrisonburg, Va.

Action taken: Information was filed in the United States District Court for the Western Judicial District of Kentucky, alleging that the Louisville Seed Co., a corporation, unlawfully delivered for transportation in interstate commerce the above-mentioned shipment of seed, misbranded in violation of the Federal Seed Act in that it was labeled "Weed Seeds—3.00%", whereas the seed contained weed seed in the proportion of 9.21 percent.

Disposition: On October 29, 1931, the case was terminated upon a plea of nolo contendere and the assessment of a fine of \$200.

**5. Misbranding of Kentucky bluegrass seed. U.S. v. 1 Bag of Kentucky Bluegrass Seed. Seed seized and ordered destroyed. (F.S. 46.)**

Kind and amount of seed: Kentucky bluegrass, 1 bag (112 pounds).

Shipped by Mitchelhill Seed Co., St. Joseph, Mo., March 13, 1931.

From St. Joseph, Mo., to Topeka, Kans.

Action taken: On May 5, 1931, a libel was filed in the United States District Court for the District of Kansas, praying seizure of the above-mentioned shipment of seed, alleging same to be misbranded in violation of the Federal Seed Act in that it was labeled, in part, "Purity 86.10%" "Noxious weed seeds (when exceeding 1/10 of 1%)—None", whereas the purity was much less than 86.10 percent and the seed contained more than one tenth of 1 percent of noxious weed seeds. The one bag of seed was seized by the United States marshal.

Disposition: On November 23, 1931, no claimant having appeared and the court having found the allegations of the libel to be true, it was ordered that the United States marshal destroy the seed.

**6. Misbranding of soybean seed. U.S. v. 54 Bags of Soybean Seed. Seed seized and sold. (F.S. 29.)**

Kind and amount of seed: Soybeans, 268 bags (670 bushels).

Shipped by Louisville Seed Co., Louisville, Ky., January 6, 1931.

From Louisville, Ky., to Athens, Ohio.

Action taken: On August 29, 1931, a libel was filed in the United States District Court for the Southern Judicial District of Ohio, praying seizure for condemnation of 54 bags of the above-mentioned shipment, alleging same to be misbranded in violation of the Federal Seed Act in that the labels bore the statement "Germination 90%", whereas the seed germinated much less than 90 percent. The United States marshal seized 63 bags of the above-described seed on September 3, 1931.

Disposition: On December 21, 1931, a decree of condemnation was filed and on January 14, 1932, the seed was sold at public auction.

**7. Misbranding of timothy seed. U.S. v. Allen B. Beverstock (Lexington Elevator & Mill Co.). Plea of guilty. Fine, \$5. (F.S. 40.)**

Kind and amount of seed: Timothy, 5 bags (681 pounds).

Shipped by Lexington Elevator & Mill Co., Lexington, Ohio, April 16, 1931.

From Mount Gilead, Ohio, to Appalachia, Va.

Action taken: Information was filed in the United States District Court for the Southern District of Ohio alleging that Allen B. Beverstock, trading and doing business at Lexington, Ohio, as the Lexington Elevator & Mill Co., unlawfully delivered for transportation in interstate commerce the above-mentioned shipment of seed, misbranded in violation of the Federal Seed Act in that it was labeled "Approx. Germination 90.00%", whereas it germi-

nated much less than 90 percent. A sample of the seed upon test germinated not more than 39 percent in May 1931.

Disposition: On January 4, 1932, the defendant entered a plea of guilty and was fined \$5.

**8. Misbranding of oat seed. U.S. v. 2 Bags of Oat Seed. Seed seized and ordered destroyed. (F.S. 43.)**

Kind and amount of seed: Oats, 5 bags (25 bushels).

Shipped by Blount-Midyette & Co., Inc., Washington, N.C., on September 12, 1931.

From Washington, N.C., to Lawrenceville, Va.

Action taken: On November 21, 1931, a libel was filed in the United States District Court for the Eastern District of Virginia praying seizure of 2 bags of the above-mentioned seed, alleging same to be misbranded in violation of the Federal Seed Act in that the seed was labeled, in part, "Germination 92% Date tested Aug. 7, 1931," whereas the seed did not germinate more than 48 percent. On November 24, 1931, the United States marshal seized the two remaining bags of the seed.

Disposition: On February 15, 1932, no claimant having appeared, a decree was entered ordering the seed to be destroyed.

**9. Misbranding of rye seed. U.S. v. W. P. Bell & Co. Plea of guilty. Fine, \$200. (F.S. 24.)**

Kind and amount of seed: Rye, 120 bags (300 bushels).

Shipped by W. P. Bell & Co., Nashville, Tenn., September 21, 1929.

From Nashville, Tenn., to Greenville, S.C.

Action taken: On or about October 20, 1931, information was filed in the United States District Court for the Middle District of Tennessee, alleging that W. P. Bell & Co., a corporation, did unlawfully ship in interstate commerce the above-mentioned shipment of seed misbranded in violation of the Federal Seed Act in that the seed was labeled "Abruzzi Rye", whereas it was not Abruzzi rye.

Disposition: On May 16, 1932, the case was terminated upon a plea of guilty and the assessment of a fine of \$200.

**10. Misbranding of cowpea seed. U.S. v. B. B. Kirkland Seed Co. Plea of nolo contendere. Fine, \$200. (F.S. 45.)**

Kind and amount of seed: Cowpeas, 13 bags (32½ bushels).

Shipped by B. B. Kirkland Seed Co., Columbia, S.C., on or about June 30, 1931.

From Wagener, S.C., to Capeville, Va.

Action taken: On or about January 4, 1932, information was filed in the United States District Court for the Eastern District of South Carolina, alleging that the B. B. Kirkland Seed Co., a corporation, did unlawfully offer for sale in interstate commerce the above-mentioned seed, misbranded in violation of the Federal Seed Act in that the labels furnished subsequent to the date of shipment bore the statement, "Germination 95 percent", whereas the seed germinated much less than 95 percent.

Disposition: On November 3, 1932, the case was terminated upon a plea of nolo contendere and the assessment of a fine of \$200.

**11. Misbranding of medium red-clover seed. U.S. v. 6 Bags of Medium Red Clover Seed. Seed seized but released under bond to be recleaned. (F.S. 54.)**

Kind and amount of seed: Medium red clover, 6 bags (1,050 pounds).

Shipped by Lexington Elevator & Mill Co., Lexington, Ohio, March 31, 1932.

From Mount Gilead, Ohio, to Appalachia, Va.

Action taken: On or about June 25, 1932, a libel was filed in the United States District Court for the Western District of Virginia, praying seizure of the above-mentioned shipment of seed, alleging same to be misbranded in violation of the Federal Seed Act in that the seed was labeled "Approx. weed .08", whereas the seed contained weed seed in the proportion of 5.14 percent. The seed was seized by the United States marshal.

Disposition: On November 8, 1932, the claimant having admitted the allegations of the libel, an amended decree was entered releasing the seed to the claimant, Lexington Elevator & Mill Co., under bond in the sum of \$150, conditioned upon the seed being returned to the claimant for recleaning under supervision of the Ohio State Department of Agriculture, and not to be sold con-





trary to State or Federal law. The decree further provided that the claimant should pay all costs.

**12. Misbranding of soybean seed. U.S. v. 12 Bags of Soybean Seed. Seed seized and ordered destroyed. (F.S. 61.)**

Kind and amount of seed: Soybeans, 75 bags (150 bushels).

Shipped by The Rowland Co., Athens, Ga., January 16, 1932.

From Belhaven, N.C., to Boaz, Ala.

Action taken: On December 28, 1932, a libel was filed in the United States District Court for the Northern District of Alabama praying seizure of 12 remaining bags of the above-mentioned shipment of seed, alleging same to be misbranded in violation of the Federal Seed Act in that the label represented the seed to have a germination of 92 percent to 95 percent, whereas it was found in June 1932 to germinate not more than 37.75 percent. The United States marshal seized the 12 bags on January 9, 1933.

Disposition: On March 16, 1933, no claimant having appeared, the case was terminated upon entering a decree ordering the 12 bags of seed to be destroyed.

**13. Misbranding of bush lima beans. U.S. v. Frank S. Woodruff (S. D. Woodruff & Sons). Plea of nolo contendere. Fine, \$200. (F.S. 63.)**

Kind and amount of seed: Bush lima beans—5 bags (600 pounds).

Shipped by S. D. Woodruff & Sons, Orange, Conn., July 15, 1932.

From New Haven, Conn., to Cheriton, Va.

Action taken: On January 9, 1933, information was filed in the United States District Court for the District of Connecticut, alleging that Frank S. Woodruff, manager of the firm S. D. Woodruff & Sons, did unlawfully deliver for transportation in interstate commerce the above-mentioned shipment of seed, misbranded in violation of the Federal Seed Act in that the seed was labeled, in part, "Germination 94% 4-32", whereas the seed did not germinate more than 50 percent.

Disposition: On March 30, 1933, the case was terminated upon a plea of nolo contendere. A fine of \$200 was assessed.

**14. Misbranding of soybean seed. U.S. v. 58 Bags of Soybean Seed. Seed seized, but released under bond. (F.S. 62.)**

Kind and amount of seed: Oototan soybeans, 75 bags (150 bushels).

Shipped by The Rowland Co., Athens, Ga., January 11, 1932.

From Norfolk, Va., to Guntersville, Ala.

Action taken: On December 27, 1932, a libel was filed in the United States District Court for the Northern District of Alabama praying seizure of 58 bags of the above-mentioned shipment of seed, alleging same to be misbranded in violation of the Federal Seed Act in that the label represented the seed to have a germination of 92 percent to 95 percent, whereas it was found in June 1932 to germinate not more than 60 percent. On January 9, 1933, the United States marshal seized 58 bags of the seed.

Disposition: On May 1, 1933, an order was entered releasing the 58 bags of seed to claimant under bond in the sum of \$600, conditioned upon the seed being converted into feed, or planted on the farm of a representative of claimant under supervision of the United States Department of Agriculture, and upon payment of all costs.